



Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Twentieth Meeting Day

Tuesday Afternoon

February 18, 2003

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend T. J. Jenney, University Church at Purdue, West Lafayette, the guest of Representative Sue W. Scholer.

The Pledge of Allegiance to the Flag was led by Representative Scholer and Boy Scout Troop 419 from Fort Wayne.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown ☐	McClain
T. Brown	Moses
Buck	Murphy
Budak	Neese
Buell	Noe
Burton ☐	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith ☐
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 127: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 19, 2003, at 10:00 a.m.

GOODIN

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1022, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1242, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, between lines 5 and 6, insert:

"SECTION 11. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and
- (3) attend the annual meeting of the township legislative body on the second Tuesday after the first Monday in the next January, held under IC 36-6-6-9 and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 12. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 13. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 14. IC 36-7-4-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 311. (a) ADVISORY. The advisory plan commission may appoint, prescribe the duties, and fix the compensation of such employees as are necessary for the discharge of the duties of the commission. This compensation must be in conformity with salaries and compensation

fixed up to that time by the fiscal body of the municipality or county, as the case may be. The commission may contract for special or temporary services and any professional counsel.

(b) AREA.

(1) ~~Except as provided in subdivision (2);~~ The area plan commission shall appoint an executive director for the planning department and fix the director's compensation. To be qualified for the position, the executive director must have training and experience in the field of planning and zoning. The commission may not give any consideration to political affiliation in the appointment of the executive director.

(2) ~~This subdivision applies to an area plan commission of a county in which the largest city has a population of less than twenty-five thousand (25,000) or to a county that has no cities. When there is a vacancy in the position of executive director of the planning department, the area plan commission shall give to the county commissioners the name of a person recommended for the position. The county commissioners shall appoint an executive director who may be the person recommended by the area plan commission. The county commissioners may remove the executive director. The county commissioners shall fix the director's compensation. To be qualified for the position, an executive director must have training and experience in the field of planning and zoning. In making the appointment, the county commissioners may not give any consideration to political affiliation of the executive director."~~

Renumber all SECTIONS consecutively.

(Reference is to HB 1242 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

MOSES, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1244, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 28, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1336, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

(Reference is to HB 1336 as printed February 11, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 3.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1499, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, delete "liability, personal injury protection," and insert **"liability coverage, medical payment coverage,"**.

(Reference is to HB 1499 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 6.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1519, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 16, delete "following purposes:" and insert **"purposes set forth in subdivisions (1) through (5) and shall be used as provided in subdivision (6):"**.

Page 3, between lines 37 and 38, begin a new line block indented and insert:

"(6) Ten percent (10%) of the money received by a city, town, or county under subsection (d) shall be used to promote tourism in the city, town, or county."

(Reference is to HB 1519 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1679, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 32-28-3-1, AS AMENDED BY P.L.101-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure; ~~or~~

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

(1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected; to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other

structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract: ~~for the construction, alteration, or repair of:~~

(1) **for the construction, alteration, or repair of** a Class 2 structure (as defined in IC 22-12-1-5);

(2) **for the construction, alteration, or repair of** an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5); ~~or~~

(3) **for the construction, alteration, or repair of** property that is:

(A) owned, operated, managed, or controlled by a:

(i) public utility (as defined in IC 8-1-2-1);

(ii) municipally owned utility (as defined in IC 8-1-2-1);

(iii) joint agency (as defined in IC 8-1-2.2-2);

(iv) rural electric membership corporation formed under IC 8-1-13-4;

(v) rural telephone cooperative corporation formed under IC 8-1-17; or

(vi) not-for-profit utility (as defined in IC 8-1-2-125);

regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; **or**

(4) to prepare property for Class 2 residential construction;

may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

(1) be in writing;

(2) contain specific reference by legal description of the real estate to be improved;

(3) be acknowledged as provided in the case of deeds; and

(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;

(2) index the contract in the name of the:

(A) contractor; and

(B) owner;

in books kept for that purpose; and

(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of

acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the township assessor;

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on mechanic's liens established by this SECTION.

(b) There is established the interim study committee on mechanic's liens. The committee shall study mandatory notice of no lien contracts for residential construction.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The committee consists of eight (8) members of the general assembly appointed as follows:

(1) The speaker of the house of representatives shall appoint four (4) representatives, not more than two (2) of whom are members of the same political party.

(2) The president pro tempore of the senate shall appoint four (4) senators, not more than two (2) of whom are members of the same political party.

(e) At the time the committee members are appointed, the chairman of the legislative council shall appoint a member of the committee to be chairperson of the committee. A member of the committee serves as chairperson at the pleasure of the appointing authority who appointed the member to the office.

(f) If a vacancy occurs on the committee, the vacancy shall be filled by the appointing authority making the original appointment.

(g) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including a final report.

(h) The committee shall issue a final report before November 1, 2003.

(i) This SECTION expires November 1, 2003.

SECTION 3. An emergency is declared for this act.

(Reference is to HB 1679 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1822, has had the same under consideration and begs leave to report the same back to

the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1858, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

HOUSE BILLS ON SECOND READING

House Bill 1077

Representative Reske called down House Bill 1077 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1077-2)

Mr. Speaker: I move that House Bill 1077 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-46-3-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this chapter, "law enforcement animal" means an animal that is owned or used by a law enforcement agency for the principal purposes of:

- (1) aiding in:
 - (A) the detection of criminal activity;
 - (B) the enforcement of laws; and
 - (C) the apprehension of offenders; and
- (2) ensuring the public welfare.
- (b) The term includes, but is not limited to, the following:
 - (1) A horse.
 - (2) An arson investigation dog.
 - (3) A bomb detection dog.
 - (4) A narcotic detection dog.
 - (5) A patrol dog.
 - (6) ~~A search and rescue dog.~~
 - (7) ~~A tracking dog.~~

Page 1, line 13, delete "or".

Page 1, line 15, after ";" insert "or".

Page 1, between lines 15 and 16, begin a new line block indented and insert:

"(4) death;".

Page 1, line 16, delete "The offense is a Class C felony if".

Page 1, delete line 17.

Page 2, delete line 1.

Page 2, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 2. IC 35-46-3-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.3. (a) As used in this section, "search and rescue dog" means a dog that receives special training to locate or attempt to locate by air scent or ground or water tracking a person who is an offender or is lost, trapped, injured, or incapacitated.

(b) A person who knowingly or intentionally:

- (1) interferes with the actions of a search and rescue dog while the dog is performing or is attempting to perform a search and rescue task; or
 - (2) strikes, torments, injures, or otherwise mistreats a search and rescue dog;
- commits a Class A misdemeanor.

(c) An offense under subsection (b)(2) is a Class D felony if the act results in:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the search and rescue dog.

(d) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or disciplining the search and rescue dog; or

(2) reasonably believed the conduct was necessary to prevent injury to the accused person or another person.

(e) In addition to any sentence or fine imposed for a conviction of an offense under this section, the court may order the person to make restitution to the person who owns the search and rescue dog for reimbursement of:

(1) veterinary bills; and

(2) replacement costs of the dog if the dog is disabled or killed."

Page 3, line 2, after "act," insert "and IC 35-46-3-11.3, as added by this act,".

Renumber all SECTIONS consecutively.

(Reference is to HB 1077 as printed February 7, 2003)

RESKE

Motion prevailed. The bill was ordered engrossed.

House Bill 1082

Representative Weinzapfel called down House Bill 1082 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1175

Representative Kuzman called down House Bill 1175 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1144

Representative Crawford called down House Bill 1144 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1144-1)

Mr. Speaker: I move that House Bill 1144 be amended to read as follows:

Page 4, line 12, before "License" insert "certain".

Page 4, line 14, after "provider" insert "who accepts voucher payments as defined in IC 12-17.2-3.5-3".

Page 4, line 30, before "shall" insert "and accepts voucher payments as defined in IC 12-17.2-3.5-3".

(Reference is to HB 1144 as printed February 14, 2003.)

TURNER

Motion failed. The bill was ordered engrossed.

House Bill 1212

Representative Fry called down House Bill 1212 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1212-1)

Mr. Speaker: I move that House Bill 1212 be amended to read as follows:

Page 1, line 17, delete "county and the attorney general;" and insert "county;".

(Reference is to HB 1212 as printed February 14, 2003.)

FRY

Motion prevailed. The bill was ordered engrossed.

House Bill 1274

Representative Weinzapfel called down House Bill 1274 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1565

Representative Cochran called down House Bill 1565 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1565-3)

Mr. Speaker: I move that House Bill 1565 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-22.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) The board may authorize the service bureau to issue temporary fellowship permits for the practice of medicine. A temporary fellowship is subject to any termination date specified by the board.

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

- (1) applies in the form and manner required by the board;
- (2) pays a fee set by the board;
- (3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;
- (4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;
- (5) has been accepted into a postgraduate medical fellowship training program that:
 - (A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);
 - (B) has a training site located in Indiana; and
 - (C) has standards for postgraduate medical education and training satisfactory to the board;
- (6) provides the board with documentation of the areas of medical practice for which the training is sought;
- (7) provides the board with at least two (2) letters of reference documenting the individual's character; and
- (8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for the temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by it to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board, but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

- (1) violated; or
- (2) authorized or permitted a physician to violate;

this section.

(Reference is to HB 1565 as printed February 4, 2003.)

COCHRAN

Motion prevailed.

HOUSE MOTION
(Amendment 1565-1)

Mr. Speaker: I move that House Bill 1565 be amended to read as follows:

Page 3, after line 36, begin a new paragraph and insert:

"(I) A person issued a temporary medical permit under this section must file an affidavit that:

- (a) is signed by a physician licensed in Indiana;**
- (b) includes the license number of the signing physician;**
- (c) attests that the physician will monitor the work of the physician holding the temporary medical permit; and**
- (d) is notarized.**

The affidavit must be filed with the service bureau before the person holding the temporary medical permit may provide medical services."

(Reference is to HB 1565 as printed February 4, 2003.)

T. BROWN

Motion prevailed. The bill was ordered engrossed.

House Bill 1625

Representative Mahern called down House Bill 1625 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1625-1)

Mr. Speaker: I move that House Bill 1625 be amended to read as follows:

Page 10, line 33, delete "for" and insert "; and".

Page 10, delete lines 34 through 37, begin a new paragraph and insert:

"(4) an annual registration fee of one hundred dollars (\$100) for each location, except the initial location, from which consumer fireworks are to be offered for sale for use at a special discharge location."

MAHERN

Motion prevailed. The bill was ordered engrossed.

House Bill 1656

Representative Bischoff called down House Bill 1656 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1656-1)

Mr. Speaker: I move that House Bill 1656 be amended to read as follows:

Page 5, line 20, after "2." insert "(a)".

Page 5, line 21, reset in roman "ten".

Page 5, line 21, delete "fifteen".

Page 5, line 21, reset in roman "(\$10)".

Page 5, line 21, delete "(\$15)".

Page 5, between lines 24 and 25, begin a new paragraph and insert:

"(b) The department may issue an annual permit to a person to conduct field trials under rules adopted under IC 4-22-2 for the protection of wild animals. The rules shall be incorporated in or attached to the annual permit. The fee for an annual permit is ten dollars (\$10) for each field trial conducted under the annual permit. To obtain an annual permit under this subsection, a person must provide the department a list containing the date and location of each field trial to be conducted under the permit."

(Reference is to HB 1656 as printed February 14, 2003.)

BISCHOFF

Motion prevailed.

HOUSE MOTION
(Amendment 1656-2)

Mr. Speaker: I move that House Bill 1656 be amended to read as follows:

Page 4, delete lines 31 through 39.

Page 5, delete lines 41 through 42.

Page 6, delete lines 1 through 4, begin a new paragraph and insert: "SECTION 20. IC 14-22-28-1, AS AMENDED BY P.L.155-2002, SECTION 7 AND P.L.158-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The director may issue to a person that owns or has an interest in property being damaged or threatened with damage by a wild animal protected by this article a free permit to take, kill, or capture the wild animal.

(b) **The director may issue to a person who charges a fee for providing nuisance wild animal control services to the public a permit to take, kill, or capture a wild animal protected by this article. The annual fee for a permit issued under this subsection is fifteen dollars (\$15).**"

Page 6, line 7, delete "The fee for a" and insert "A".

Page 6, line 7, after "permit" insert "**issued**".

Page 6, line 8, delete "is fifteen dollars (\$15)." and insert "**expires December 31 following the date of issue.**"

Renumber all SECTIONS consecutively.

(Reference is to HB 1656 as printed February 14, 2003.)

BISCHOFF

Motion prevailed. The bill was ordered engrossed.

House Bill 1811

Representative Crawford called down House Bill 1811 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1811-3)

Mr. Speaker: I move that House Bill 1811 be amended to read as follows:

Page 4, delete lines 10 through 42.

Page 5, delete lines 1 through 12.

Page 8, delete lines 37 through 40.

Renumber all SECTIONS consecutively.

(Reference is to HB 1811 as printed February 11, 2003.)

FRENZ

Motion prevailed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:30 p.m. with the Speaker in the Chair.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 19, 2003 at 10:30 a.m.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Engrossed House Bill 1082 be returned to the second reading calendar forthwith for the purpose of amendment.

WEINZAPFEL

Motion prevailed.

HOUSE BILLS ON SECOND READING

House Bill 1082

Representative Weinzapfel called down House Bill 1082 for second reading. The bill was reread a second time by title.

HOUSE MOTION (Amendment 1082-1)

Mr. Speaker: I move that House Bill 1082 be amended to read as follows:

Page 2, line 6, after "**report.**" insert "**This section does not apply to acts or omissions amounting to gross negligence or wilful or**

wanton misconduct".

(Reference is to HB 1082 as printed February 14, 2003.)

ULMER

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1169

Representative Herrell called down Engrossed House Bill 1169 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representatives Duncan, Hoffman, Kersey, Klinker, and Pond were excused from voting.

Roll Call 128: yeas 88, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks, Hume, Ford, and Craycraft.

Engrossed House Bill 1353

Representative Moses called down Engrossed House Bill 1353 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 129: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Lanane.

Engrossed House Bill 1573

Representative Kromkowski called down Engrossed House Bill 1573 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Buell was excused from voting.

Roll Call 130: yeas 90, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks, Hume, Lubbers, and Craycraft.

Representative Saunders was excused.

Engrossed House Bill 1393

Representative Bischoff called down Engrossed House Bill 1393 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 131: yeas 53, nays 39. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske and Nugent.

Engrossed House Bill 1623

Representative Bischoff called down Engrossed House Bill 1623 for third reading:

A BILL FOR AN ACT concerning agriculture.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 132: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax, Lewis, Merritt, and Craycraft.

Representative Saunders, who had been excused, was present.

Engrossed House Bill 1647

Representative Pflum called down Engrossed House Bill 1647 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 133: yeas 90, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Craycraft.

Engrossed House Bill 1660

Representative Day called down Engrossed House Bill 1660 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 134: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Breaux.

Engrossed House Bill 1731

Representative Aguilera called down Engrossed House Bill 1731 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 135: yeas 94, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and S. Smith.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1145, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1159, has had the same under consideration and begs leave to report the same back to the House with the

recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "(a) Except as".

Page 1, line 3, delete "provided in subsection (b), if" and insert "If".

Page 1, line 3, after "court" insert "**or an ordinance violations bureau**".

Page 1, line 7, after "clerk of the court" insert "**or the clerk of the ordinance violations bureau**".

Page 1, delete lines 15 through 17.

Page 2, delete lines 1 through 8.

Page 2, line 17, delete "political subdivision." and insert "**municipality**".

(Reference is to HB 1245 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1476, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-14-1.5-5, AS AMENDED BY P.L.90-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) **depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods:**

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail.

(C) Transmitting the notice by facsimile (fax).

If a governing body comes into existence after January 1, it shall comply with this subdivision upon receipt of a written request for notice.

In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the intelnet commission under IC 5-21-2.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time,

or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to this section.

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting."

Renumber all SECTIONS consecutively.

(Reference is to HB 1476 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

HASLER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1482, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 6, begin a new paragraph and insert: **"Sec. 1. The department shall determine whether a railroad grade crossing is abandoned or unused after receiving a request for the determination from:**

(1) the railroad; or

(2) the state highway district or local road authority that has jurisdiction over the roadway."

Page 1, line 8, delete "as an exempt crossing for purposes of" and insert **"under"**.

Page 1, delete lines 10 through 15, begin a new paragraph and insert:

"Sec. 3. An abandoned or unused railroad grade crossing designated under section 2 of this chapter must be marked with signs reading "tracks out of service". The signs must:

(1) be posted and maintained by the department or the local road authority having jurisdiction over the roadway; and

(2) be in conformance with the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted under IC 9-21-2-1.

Sec. 4. (a) The railroad shall provide the department and the local road authority having jurisdiction over a roadway with written notice at least thirty (30) days prior to resuming operation over an abandoned or unused railroad crossing. The

notice must include a request that the signs posted under section 3 of this chapter be removed from the crossing.

(b) After removal of the signs under subsection (a), the railroad shall mark the railroad grade crossing for six (6) months with signs reading "train traffic resumed -- tracks in service".

Page 2, line 6, delete "as exempt".

Page 2, line 8, delete "an official exemption" and insert **"a "tracks out of service"**".

(Reference is to HB 1482 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

KROMKOWSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1518, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, delete "technology and science" and insert **"technology, science, and economic development"**.

Page 1, line 14, delete "technology and science." and insert **"technology, science, and economic development."**

Page 1, line 16, delete "technology and science" and insert **"technology, science, and economic development"**.

Page 2, line 2, delete "technology and science" and insert **"technology, science, and economic development"**.

Page 2, line 4, delete "technology and" and insert **"technology, science, and economic development."**

Page 2, delete line 5.

Page 2, line 10, delete "standing committee of the senate that," and insert **"senate economic development and technology committee."**

Page 2, delete lines 11 through 12.

Page 2, line 13, delete "standing committee of the house of" and insert **"house technology, research, and development committee."**

Page 2, delete lines 14 through 20, begin a new line blocked left and insert **"The chairperson of each committee shall co-chair the commission."**

Page 2, line 21, delete "6." and insert **"5."**

Page 2, line 23, delete "7." and insert **"6."**

Page 2, line 26, delete "8." and insert **"7. (a) The commission may create subcommittees to study topics, receive testimony, and prepare reports on topics assigned by the commission.**

(b) The chairperson of the commission shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote of the members appointed to the commission appoint initial members to each subcommittee. Each subcommittee may by a majority vote of the members appointed to the subcommittee make a recommendation to the commission to appoint additional members to the subcommittee. The commission may by a majority vote of the members appointed to the commission appoint or remove members of a subcommittee.

(c) A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(d) The legislative services agency is not required to provide staff assistance to a subcommittee of the commission.

Sec. 8."

(Reference is to HB 1518 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

HASLER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1535, has had the same under consideration and

begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 2.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1559, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-8-6.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.3. Manicurist Instructor Licenses

Sec. 1. The board may license a person to be a manicurist instructor.

Sec. 2. An applicant for a manicurist instructor license must file a verified application with the board. The application must be made on a form prescribed by the board.

Sec. 3. The board may issue a manicurist instructor license to an applicant who meets the requirements of this chapter.

Sec. 4. An applicant for a manicurist instructor license must satisfy the following conditions in order to receive a license:

- (1) Be at least eighteen (18) years of age.
- (2) Have graduated from high school or received the equivalent of a high school education.
- (3) Hold a manicurist license issued under IC 25-8-11.
- (4) Have actively practiced manicuring in a manicuring salon for at least one (1) year and subsequently successfully completed at least one thousand (1,000) hours of instruction in the theory and practice of instructor training as a student in a cosmetology school.
- (5) Not have committed an act for which the applicant could be disciplined under IC 25-8-14.
- (6) Have received a satisfactory grade (as described in IC 25-8-4-9) on an examination for instructor license applicants prescribed by the board.
- (7) Have paid the fee under IC 25-8-13-4 for the issuance of a license under this chapter.

Sec. 5. If an applicant for a manicurist instructor license does not receive a satisfactory grade on the examination described in section 4(6) of this chapter, the applicant may repeat the examination, subject to the rules governing the examination adopted by the board.

Sec. 6. If an applicant for a manicurist instructor license does not receive a satisfactory grade on a repeat examination described in section 5 of this chapter, the board may:

- (1) refuse to permit the applicant to take the examination again; or
- (2) permit the applicant to take the examination again subject to the rules governing the examination adopted by the board.

SECTION 2. IC 25-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The board shall charge a fee of forty dollars (\$40) for issuing or renewing:

- (1) a cosmetology instructor license;
- (2) an esthetics instructor license; or
- (3) an electrology instructor license; or
- (4) a manicurist instructor license.

(b) The board shall charge a fee for restoring an instructor license. The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:

Days Following Expiration of License	Fee
1-30	\$20
31-180	30
More than 180	40

(Reference is to HB 1559 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 2.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1569, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-7-2-124.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Sec. 124.2. "Listed drug", for purposes of IC 12-15-35-50, has the meaning set forth in IC 12-15-35-50(a).

SECTION 2. IC 12-7-2-169.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 169.2. "Retail price", for purposes of IC 12-15-35-50, has the meaning set forth in IC 12-15-35-50(b).**

SECTION 3. IC 12-10-16-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) The office of the secretary shall publish on the Internet through the computer gateway administered by the intelenet commission under IC 5-21-2 and known as accessIndiana information through which a person may access and apply to participate in a prescription drug discount program provided by a pharmaceutical manufacturer.**

(b) The office of the secretary shall make available the information published under subsection (a) in written form at each county office.

SECTION 4. IC 12-10-16-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8. The office of the secretary shall promote and encourage participation in the program. The office of the secretary shall provide educational materials, including brochures, posters, and flyers for pharmacies and pharmacists, concerning all aspects of the program.**

SECTION 5. IC 12-15-35-28, AS AMENDED BY P.L.107-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 28. (a) The board has the following duties:**

- (1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.
- (2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.
- (3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

- (4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.
- (5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.
- (6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:
- (A) The Indiana board of pharmacy.
 - (B) The medical licensing board of Indiana.
 - (C) The SURS staff.
- (7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.
- (8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:
- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
 - (B) Potential or actual severe or adverse reactions to drugs.
 - (C) Therapeutic appropriateness.
 - (D) Overutilization or underutilization.
 - (E) Appropriate use of generic drugs.
 - (F) Therapeutic duplication.
 - (G) Drug-disease contraindications.
 - (H) Drug-drug interactions.
 - (I) Incorrect drug dosage and duration of drug treatment.
 - (J) Drug allergy interactions.
 - (K) Clinical abuse and misuse.
- (9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
- (10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
- (11) The research, development, and approval of a preferred drug list for:
- (A) Medicaid's fee for service program;
 - (B) Medicaid's primary care case management program; and
 - (C) The primary care case management component of the children's health insurance program under IC 12-17.6;
- in consultation with the therapeutics committee.
- (12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.
- (13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.
- (14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.
- (15) The development, implementation, and publication of an annual retail drug pricing survey of Indiana pharmacies required under section 50 of this chapter.**
- (b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.
- (c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:
- (1) Use literature abstracting technology.
 - (2) Use commonly accepted guidance principles of disease management.
 - (3) Develop therapeutic classifications for the preferred drug list.
- (4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
- (5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.
- (d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.
- (e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration and that is:
- (1) in a therapeutic classification:
 - (A) that has not been reviewed by the board; and
 - (B) for which prior authorization is not required; or
 - (2) the sole drug in a new therapeutic classification that has not been reviewed by the board.
- (f) The board may not exclude a drug from the preferred drug list based solely on price.
- (g) The following requirements apply to a preferred drug list developed under subsection (a)(11):
- (1) The office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:
 - (A) To override a prospective drug utilization review alert.
 - (B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.
 - (C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.
 - (D) To permit implementation of a disease management program.
 - (E) To implement other initiatives permitted by state or federal law.
 - (2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.
 - (3) The office may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.
 - (4) The board may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list.
- (h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:
- (1) The cost of administering the preferred drug list.
 - (2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.
 - (3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.
 - (4) The number of times prior authorization was requested, and the number of times prior authorization was:
 - (A) approved; and
 - (B) disapproved.
- (i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.
- SECTION 6. IC 12-15-35-50 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 50. (a) As used in this section, "listed drug" means a prescription drug designated by the board under subsection (c).**

(b) As used in this section, "retail price" means the retail price of a listed drug less any insurance or third party payment.

(c) The board shall determine and designate annually the fifteen (15) prescription drugs that are:

- (1) prescribed most frequently to recipients of; and
- (2) covered under;

Medicaid. The office of the secretary shall provide the board with the information necessary for the board to make the determination and designation required under this subsection.

(d) After making the designation under subsection (c), the board shall conduct an annual voluntary survey of Indiana pharmacies to determine the retail price of each listed drug at each pharmacy that responds to the survey.

(e) The board shall annually publish the results of the survey under subsection (d) on the Internet through the computer gateway administered by the intelnet commission under IC 5-21-2 and known as accessIndiana. The survey results must be searchable by:

- (1) listed drug; and
- (2) county.

(Reference is to HB 1569 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

HASLER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1664, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1684, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete pages 1 through 5.

Page 6, delete lines 1 through 15.

Page 7, delete lines 40 through 42.

Delete pages 8 through 18.

Page 19, delete lines 1 through 40.

Page 21, delete lines 37 through 42.

Delete pages 22 through 26.

Page 27, delete lines 1 through 27.

Page 35, delete lines 32 through 42.

Delete page 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1684 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 2.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1690, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 23, nays 3.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1721, has had the

same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1728, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 39 through 42, begin a new line block indented and insert:

"(19) Add an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code."

Page 4, delete lines 16 through 19, begin a new line block indented and insert:

"(5) Add an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code."

Page 4, line 35, delete lines 35 through 38, begin a new line block indented and insert:

"(5) Add an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code."

Page 5, delete lines 12 through 15, begin a new line block indented and insert:

"(5) Add an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code."

Page 5, delete lines 26 through 29, begin a new line block indented and insert:

"(3) Add an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code."

Page 6, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 3. IC 6-5.5-1-2, AS AMENDED BY P.L.273-1999, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) An amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable

year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 4. [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)] (a) As used in this SECTION, "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11, as amended by this act.

(b) IC 6-3-1-11, as amended by this act, does not authorize a taxpayer, in the determination under:

(1) IC 6-3-1-3.5; or

(2) IC 6-5.5-1-2;

of adjusted gross income for a taxable year that began before January 1, 2003, to deduct any part of a depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code for that taxable year.

(c) For a taxable year beginning in 2002 or 2003, an individual whose determination under IC 6-3-1-3.5 of adjusted gross income for the taxable year includes the deduction under Section 62(a)(2)(D) of the Internal Revenue Code is treated as having complied with IC 6-3."

Page 6, line 23, delete "and" and insert ",".

Page 6, line 23, delete ", both" and insert ", and IC 6-5.5-1-2, all".

Renumber all SECTIONS consecutively.

(Reference is to HB 1728 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1751, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 2.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1804, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 6, after "That" insert **"the supplier knowingly excludes from the advertised price"**.

Page 4, line 10, delete "transaction are" and insert **"transaction."**.

Page 4, delete line 11.

(Reference is to HB 1804 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1814, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 17, nays 3.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1815, has had the same under consideration and

begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 12, line 2, after "(11)" insert "(4)".

Page 12, line 2, reset in roman "food sold through a vending machine".

Page 12, line 2, after "machine" insert ";".

Page 12, line 3, delete "(4)" and insert "(5)".

Page 12, line 4, delete "(5)" and insert "(6)".

Page 12, line 12, delete "(6)" and insert "(7)".

(Reference is to HB 1815 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1879, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 5.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1881, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 41 through 42.

Page 3, delete lines 1 through 2.

Renumber all SECTIONS consecutively.

(Reference is to HB 1881 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 3.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1897, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1922, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 7 through 41.

Renumber all SECTIONS consecutively.

(Reference is to HB 1922 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 4.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1923, has had the same under consideration and begs leave to report the same back to the House

with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 6.

LIGGETT, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1197, 1519, 1636, 1922, and 1923 had been referred to the Committee on Ways and Means.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1324, Roll Call 82, on February 11, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

ESPICH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 82 to 75 yeas, 23 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representative Denbo be added as coauthor of House Bill 1056.

GOODIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative D. Young be added as coauthor of House Bill 1145.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel, Lytle, and Ayres be added as coauthors of House Bill 1153.

HASLER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stine be added as coauthor of House Bill 1278.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1482.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Liggett be removed as author of House Bill 1559, Representative Dickinson be substituted as author, and Representative Liggett be added as coauthor.

LIGGETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Austin and Budak be added as coauthor of House Bill 1559.

DICKINSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Torr and Kuzman be added as coauthors of House Bill 1587.

SUMMERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1623.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Torr be added as coauthor of House Bill 1684.

LIGGETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Stevenson and LaPlante be added as coauthors of House Bill 1804.

ALDERMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative D. Young be added as coauthor of House Bill 1875.

OXLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Reske be added as coauthor of House Bill 1974.

NOE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Scholer and Saunders be added as coauthors of House Bill 2005.

FRENZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crooks be added as cosponsor of Engrossed Senate Bill 289.

CHERRY

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 13, 74, 84, 177, 201, 205, 214, 225, 279, 331, 362, 376, 430, 446, 457, 485, and 486 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative D. Young, the House adjourned at 5:05 p.m., this eighteenth day of February, 2003, until Wednesday, February 19, 2003, at 10:30 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives